

Message Text

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ACTION ARA-20

INFO OCT-01 ADP-00 SCI-06 NSF-04 AID-20 AEC-11 AECE-00

INT-08 IO-13 COA-02 OMB-01 TRSE-00 CEQ-02 EPA-04

CIAE-00 DODE-00 PM-07 H-03 INR-10 L-03 NSAE-00 NSC-10

PA-03 RSC-01 PRS-01 SS-15 SSO-00 NSCE-00 USIE-00

INRE-00 RSR-01 /146 W

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FM AMEMBASSY MEXICO

TO SECSTATE WASHDC IMMEDIATE 7552

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E.O. 11652: GDS

TAGS: PBOR, MX

SUBJ: SALINITY: BROWNELL VISIT.

REF: MEXICO 6156

BEGIN SUMMARY: IN LENGTHY SESSIONS ON AUGUST 21 INCLUDING SHORTLY AFTER 2300 HOURS, MR. BROWNELL AND FONSEC RABASA REACHED AGREEMENT ON RECOMMENDATIONS TO RESPECTIVE PRESIDENTS FOR "PERMANENT AND DEFINITIVE RESOLUTION OF SALINITY PROBLEM." HIGHLIGHTS OF THESE DISCUSSIONS AS FOLLOWS:

A. DIFFERENTIAL OF 115 PPM WITH NORMAL VARIATION FIGURE OF PLUS OR MINUS 30 PPM WAS ACCEPTED BY MEXICO.

B. MORE SPECIFIC LANGUAGE ON QUANTITIES OF WATER DELIVERIES AT DISTRIBUTION POINTS WAS AGREED UPON.

C. PROLONGED DISCUSSION OF QUESTION OF SALINITY IN RIVER ABOVE IMPERIAL DAM DID NOT PRODUCE AGREEMENT AND INITIALLY PROPOSED PARAGRAPH THIS SUBJECT WAS DELETED.

D. PARAGRAPH ON PERMANENT AND DEFINITIVE SOLUTION WAS IN THE END LIMITED TO SUBSTANTIALLY SAME LANGUAGE USED IN SECRETARY ROGERS' MAY PROPOSAL.

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E. AGREEMENT WAS REACHED ON LANGUAGE FOR REHABILITATION

ASSISTANCE MEXICALI VALLEY WHICH US NEGOTIATORS FELT WAS WITHIN PARAMETERS OF REFERENCES TO THIS ISSUE IN MR. BROWNELL'S LETTER TO THE PRESIDENT OF DECEMBER 28 AND DEPARTMENT'S COMMENT TO NSC ON MR. BROWNELL'S REPORT OF FEBRUARY 2.

F. LENGTHY DISCUSSION OF ISSUE OF US CONGRESS AUTHORIZATION RESULTED IN MEXICO'S EVENTUALLY ACCEPTING LANGUAGE ACCEPTABLE TO US. TEXT OF FINAL AGREEMENT AS WELL AS PROPOSED SCENARIO FOR SIGNING AND EXCHANGE OF NOTES WILL BE FORWARDED SEPTEL. BOTH SIDES AGREED PENDING DEVELOPMENT OF AND AGREEMENT ON THIS SCENARIO NOT TO MAKE PRIOR ANNOUNCEMENT AND TO LIMIT STATEMENTS TO PRESS TO COMMENT THAT CONSTRUCTIVE DISCUSSIONS HAD BEEN HELD. END SUMMARY.

1. MR. BROWNELL MET WITH FONSEC RABASA AT 10:30 AM AUGUST 21 WHILE COMMISSIONER FRIEDKIN MET WITH COMMISSIONER HERRERA-JORDAN AND CABRERA IN A SEPARATE MEETING.

2. AT PLENARY SESSION BEGINNING AT NOON WITH SAME PARTICIPANTS AS AUGUST 20 SESSION US SIDE DISTRIBUTED DRAFT MINUTE REVISION (REFTEL) AND GROUP AGAIN DISCUSSED THESE PARAGRAPHS. PARAS 2, 3, 4, 5, 7, 10 AND 11 WERE MUTUALLY ACCEPTABLE AS DRAFTED WITH MINOR LANGUAGE CHANGES AS FOLLOWS:

(A) PARAGRAPH 2 -- IN FIRST SENTENCE, ADD "DRAINAGE" AFTER "...MORELOS DAM VOLUMES OF...".

(B) PARAGRAPH 3 -- ADD AT BEGINNING OF PARAGRAPH " AS A PART OF THE MEASURES REFERRED TO IN PARAGRAPH 1".

(C) PARAGRAPH 4 -- ADD AT BEGINNING OF PARAGRAPH "TO COMPLETE THE DRAIN REFERRED TO IN PARAGRAPH 3".

(D) PARAGRAPH 5 -- CHANGE FIRST SENTENCE TO READ "THE UNITED STATES WILL CONTINUE TO DELIVER WATERS TO MEXICO ON THE LAND BOUNDARY AT SAN LUIS AS A PART OF MEXICO'S GUARANTEED TREATY ALLOTMENT OF COLORADO RIVER WATERS UP TO 140 THOUSAND ACRE FEET PER YEAR AS HAVE BEEN CUSTOMARILY DELIVERED TO MEXICO AT THAT LOCATION WITH A SALINITY SUBSTANTIALLY THE SAME AS THAT OF THE WATERS CUSTOMARILY DELIVERED AND SUBJECT TO THE UNDERSTANDINGS CONFIDENTIAL

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CONTAINED IN PARAGRAPH 6.

(E) PARAGRAPH 7 -- CHANGE TO READ "WITH THE OBJECTIVE OF AVOIDING FUTURE PROBLEMS, THE UNITED STATES AND MEXICO SHALL CONSULT WITH EACH OTHER PRIOR TO UNDERTAKING ANY NEW DEVELOPMENT OF EITHER THE SURFACE OR THE GROUND WATER RESOURCES IN ITS OWN TERRITORY IN THE BORDER AREA OR SUBSTANTIAL MODIFICATIONS TO PRESENT DEVELOPMENTS THAT MIGHT ADVERSELY AFFECT THE OTHER

COUNTRY.

(F) PARAGRAPHS 10 AND 11 -- NO CHANGE.

3. DISCUSSION IN THE PLENARY CENTERED UPON THE PARAS

1, 6, 8, 9, AND 12 AS FOLLOWS:

(A) PARAGRAPH 8 -- AFTER CONSIDERABLE DISCUSSION
IN WHICH MEXICANS SOUGHT LESS RESTRICTIVE TERMS ON THE
POSSIBLE US NON-REIMBURSABLE ASSISTANCE WITH MR. BROWNELL
HELD FIRMLY TO DIRECT LINKAGE BETWEEN SUCH
ASSISTANCE AND SALINITY PROBLEM (E.G. DRAINAGE TILE)
AGREEMENT WAS REACHED ON FOLLOWING WORDING.
"THE UNITED STATES WILL SUPPORT EFFORTS BY MEXICO TO OBTAIN
APPROPRIATE FINANCING ON FAVORABLE TERMS FOR THE IMPROVEMENT
AND REHABILITATION OF THE MEXICALI VALLEY. THE UNITED STATES
WILL ALSO PROVIDE NON-REIMBURSABLE ASSISTANCE ON A BASIS
MUTUALLY ACCEPTABLE TO BOTH COUNTRIES EXCLUSIVELY FOR
THOSE ASPECTS OF THE MEXICAN REHABILITATION PROGRAM IN
THE MEXICALI VALLEY RELATING TO THE SALINITY PROBLEM,
INCLUDING TILE DRAINAGE AND ALSO TECHNICAL ASSISTANCE.
IN ORDER TO COMPLY WITH THE ABOVE MENTIONED PURPOSES
BOTH COUNTRIES WILL UNDERTAKE NEGOTIATIONS AS SOON AS
POSSIBLE."

(B) PARAGRAPHS 1, 6, 9 AND 12 -- DISCUSSION WAS
PROLONGED AND AGREEMENT MUCH MORE DIFFICULT.

(C) PARAGRAPH 1 -- CABRERA QUESTIONED CHANGE
IN NEW DRAFT REFTEL DELETING REFERENCE TO WATER ABOVE
MORELOS DAM AND SUBSTITUTING LIMITROPHE SECTION IN NEW
DRAFT. ENSUING DISCUSSION FROM THIS POINT ADMITTEDLY
CONFUSED RABASA (AND OTHER

NON-ENGINEERS). RABASA
REQUESTED ESTIMATES ON SALINITY LEVELS OF WATERS DELIVERED
TO MEXICO THROUGH 1974. HE WAS FRANKLY INTERESTED IN
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BEING ABLE TO SAY LEVELS WOULD BE UNDER 1 THOUSAND PPM
BUT ESTIMATES SHOWED FIGURE ME 6 POINTS OVER
1 THOUSAND. SUBSEQUENTLY, COMMISSIONER FRIEDKIN AND
HERRERA-JORDAN AND CABRERA LEFT PLENARY FOR SEPARATE
MEETING IN ATTEMPT TO REACH AGREEMENT ON PARAGRAPH 1.

(D) PARAGRAPH 6 -- RABASA SAID HE THOUGHT AGREEMENT
REACHED YESTERDAY ON INCLUSION IN THIS PARAGRAPH OF
TERM RELATING TO "NATURAL" USE OF UPPER RIVER WATERS,
MR. BROWNELL INDICATED "NATURAL" IN ENGLISH WOULD PREVENT
ACCOMPLISHMENT OF PROJECTS IN UPPER RIVER WHICH WOULD
NOT AFFECT SALINITY LEVELS DOWNSTREAM BUT WOULD NOT BE
"NATURAL" IN THAT THEY WOULD BE MAN-MADE. HE
INDICATED THAT "REASONABLE" WAS AS FAR AS WE COULD GO
IN PREDICTING USE OF UPPER RIVER WATERS BUT HE CONSIDERED
THIS GAVE ADEQUATE ASSURANCE AGAINST FUTURE
WELTON-MOHAWKS. FURTHER DISCUSSION AT THIS TIME WAS
INCONCLUSIVE.

(E) PARAGRAPH 9 -- RABASA INSISTED THAT
COMMITMENT CONCERNING POSSIBLE CLAIMS BY LOCAL
GOVERNMENTS OR INDIVIDUALS WOULD NOT BE CONSTITUTIONAL
EITHER UNDER MEXICAN OR US LAW AND HE FOUND LANGUAGE IN
THIS DRAFT PARAGRAPH UNACCEPTABLE. IN RESPONSE,
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MR. BROWNELL SUGGESTED THAT LANGUAGE BE INCLUDED WHICH
WOULD PROVIDE THAT IN CASE OF SUCCESSFUL CLAIMS AGAINST
EITHER GOVERNMENT, THE OTHER GOVERNMENT WOULD BEAR THE
RESULTING COSTS. AMBASSADOR OSCAR RABASA
ARGUED THAT CLAIMS BY MEXICAN LOCAL GOVERNMENTS OR
CITIZENS WOULD HARDLY BE POSSIBLE UNDER US LAW. FONSEC
RABASA EXPRESSED GREAT CONCERN OVER THE POLITICAL RISKS
OF INCLUDING SUCH LANGUAGE IN THE AGREEMENT.
ENSUING DISCUSSION DID NOT PRODUCE MUCH CHANGE IN

POSITION ON EITHER SIDE.

(F) PARAGRAPH 12 -- RABASA SAID HE HAD MADE CLEAR PREVIOUSLY THAT HE COULD NOT ACCEPT REFERENCE TO SPECIFIC PARTS OF THE AGREEMENT WHICH WOULD NOT ENTER INTO FORCE UNTIL US CONGRESS AUTHORIZED FUNDS. US SIDE INDICATED THAT WORDING WAS POSSIBLY RESULT OF MISUNDERSTANDING SINCE MEXICAN SIDE ON PREVIOUS DAY HAD URGED DIVISION OF AGREEMENT BY THOSE SECTIONS REQUIRING US CONGRESS ACTION AND THOSE WHICH DID NOT. DISCUSSION ON VARIOUS ALTERNATIVE LANGUAGE PROPOSED WAS INCONCLUSIVE.

4. AFTER BRIEF INTERRUPTION WHILE FONSEC ATTENDED UNRELATED CEREMONY, DISCUSSION RESUMED PRIMARILY UPON REFERENCE IN PARAGRAPHS 12 TO REQUIREMENT FOR CONGRESSIONAL AUTHORIZATION. MEXICANS WERE CONCERNED OVER LIMITED EXTENT TO WHICH AGREEMENT CAME INTO FORCE PENDING CONGRESSIONAL AUTHORIZATION AT UNSPECIFIED FUTURE DATE. MR. BROWNELL ACKNOWLEDGED DIFFICULTY BY POINTING OUT US CONSTITUTIONAL REQUIREMENTS WHICH WELL KNOWN. RABASA NOTED THAT TIME WAS WORKING AGAINST MEXICO WHICH HAS BEEN TRYING TO STOP DAMAGES RESULTING FROM SALINITY FOR YEARS. HE SUMMED UP CONTINUING POINTS OF DISAGREEMENT, I.E. PARAGRAPHS 1, 6, 9 AND 12. MR. BROWNELL AT THIS POINT SUGGESTED THAT SINCE DIFFERENCES OVER PARAGRAPH 6 AND PARAGRAPH 9 HAD RESULTED IN APPARENT IMPASS AGREEMENT MIGHT BE REACHED TO ACCEPT US VIEW ON PARAGRAPH 6 AND MEXICAN VIEW ON PARAGRAPH 9. RABASA AGREED TO CONSIDER THIS PROPOSAL. AT THIS POINT COMMISSIONER FRIEDKIN AND HERRERA-JORDAN AND CABRERA RETURNED. THEY HAD NOT YET REACHED AGREEMENT ON PARAGRAPH 1. AT MR. BROWNELL'S SUGGESTION, IT WAS AGREED TO RECONVENE AT 9 PM.

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5. UPON RECONVENING, THE TWO COMMISSIONERS AND CABRERA DISTRIBUTED A REVISED PARAGRAPH ONE UPON WHICH THEY HAD REACHED AGREEMENT. DISCUSSION NEXT CENTERED ON PARAGRAPH CONCERNING UPRIVER SALINITY INCREASES (6). AMBASSADOR DE OUILLOQUI STRONGLY ARGUED FOR USE OF "EQUAL" TO DESCRIBE IMPACT OF POSSIBLE INCREASE IN SALINITY IN UPPER RIVER ON DOWNSTREAM US AND MEXICAN USERS. US FOUND THIS UNACCEPTABLE. AFTER LENGTHY AND INCONCLUSIVE ARGUMENT, MR. BROWNELL SUGGESTED PRIVATE WORD WITH RABASA. THE TWO AGREED THEREUPON TO DELETE PARAGRAPH 6. THIS REQUIRED, OF COURSE, CHANGES IN PARAGRAPH ONE WHICH RELATED TO THE DELETED PARAGRAPH. AS PREVIOUSLY DRAFTED PARAGRAPH ONE (B) READ: "THE UNITED STATES WILL CONTINUE TO DELIVER TO MEXICO ON THE LAND BOUNDARY SAN LUIS AND IN THE LIMITROPHE SECTION BELOW MORELOS DAM APPROXIMATELY 140 THOUSAND ACRE FEET PER

YEAR WITH A SALINITY SUBSTANTIALLY THE SAME AS THAT OF
THE WATERS CUSTOMARILY DELIVERED AND, SUBJECT TO THE
UNDERSTANDINGS CONTAINED IN PARAGRAPH 5. IT WAS AGREED
TO DELETE THE FINAL PORTION OF THIS SENTENCE, I.E.,
SUBJECT TO THE UNDERSTANDINGS CONTAINED IN PARAGRAPH FIVE"
COMMISSIONER FRIEDKIN, IN DISCUSSING THIS DELETION, POINTED
OUT TO RABASA THAT WE SHOULD BEAR IN MIND THAT "SUBSTANTIAL"
AS CONTAINED IN THE REMAING LANGUAGE OF ONE (B) IMPLIES
THE INCREASE IN SALINITY DISCUSSED IN FORMER PARAGRAPH FIVE.
RABASA INDICATED HE UNDERSTOOD AND AGREED.

6.THE FOREGOING DISCUSSION IN EFFECT MARKED ACHIEVEMENT
OF AGREEMENT ON SALINITY. REMAINDER OF DISCUSSIONS RELATED
TO SEEKING APPROVAL OF RESPECTIVE PRESIDENTS FOR AGREEMENT,
TIMING AND FORMAT OF ANNOUNCEMENTS AND QUESTION OF PRESS.
IT WAS AGREED THAT NO ANNOUNCEMENT WOULD BE GIVEN PRESS
PRIOR TO MUTUAL AGREEMENT ON TIMING. IN THE MEANTIME,
BOTH SIDES WOULD MERELY INDICATE THAT CONSTRUCTIVE
DISCUSSIONS HAD BEEN HELD. PROPOSED SCENARIO FOR
ANNOUNCEMENTS, SIGNING BY COMMISSIONERS AND EXCHANGE
OF NOTES WILL BE SUBJECT SEPTEL.

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Message Attributes

Automatic Decaptoning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 22 AUG 1973
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: golinofr
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1973MEXICO06188
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS MCBRIDE
Errors: N/A
Film Number: n/a
From: MEXICO
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1973/newtext/t19730823/aaaaaqjw.tel
Line Count: 299
Locator: TEXT ON-LINE
Office: ACTION ARA
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 6
Previous Channel Indicators:
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: MEXICO 6156
Review Action: RELEASED, APPROVED
Review Authority: golinofr
Review Comment: n/a
Review Content Flags:
Review Date: 23 JAN 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <23-Jan-2002 by willialc>; APPROVED <01 MAR 2002 by golinofr>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: SALINITY: BROWNELL VISIT.
TAGS: PBOR, MX
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005